

VOTING ACCESS RIGHTS FOR PEOPLE WITH DISABILITIES

Voting is a right of all Americans. People with disabilities can experience physical, attitudinal, and policy barriers to exercising this right and participating in the elective process. Different disabilities present different voting access needs. As long as an individual with a disability understands what it means to vote and meets all of the other criteria needed to vote in an election, they cannot be denied participation.

Legal Access:

There are laws in place which attempt to address and correct barriers to voter access for individuals with disabilities:

Voter Rights Act of 1965 as amended 1982

Allows people with disabilities to have a person of their choice assist them in voting if desired. The assistant can be a family member, friend, or even a poll worker if the individual comes to the polling site unaccompanied. The individual “may be given assistance by a person of the voter’s choice, other than the voter’s employer or agent of that employer or officer or agent of the voter’s union.” (Section 208 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973AA-6).

Voting Accessibility for the Elderly and Handicapped Act (1984)

Requires physical accessibility for polling places for federal elections. When this is not possible, alternate arrangements for casting a ballot on Election Day must be made. States must make available registration and voting aids, such as alternate formats for voting instructions, to individuals with disabilities.

Title II of the Americans with Disabilities Act (1990):

Requires that all state and local governments provide “program access.” This means that when viewed as a whole, the programs, services, and activities (including voting) must be accessible to and usable by people with disabilities. State and local governments are required to provide reasonable modifications to policies, practices, or procedures as well as auxiliary aids or services to avoid discrimination.



Help America Vote Act (HAVA)(2002):

Requires all polling places to have at least one accessible voting machine. It must provide access “in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.” (HAVA, Sec301) This includes nonvisual access for blind or visually impaired voters through assistive technology. HAVA also guarantees the right to cast a ballot even if someone challenges the right of an individual with a disability to vote. This special ballot is a provisional ballot. A poll worker will determine later if the person with a disability is allowed to vote. If so, then the vote will be counted.

Physical and Programmatic Access:

Since polling sites are located in a variety of places in the community such as in churches or firehouses, physical access can be an issue for individuals with disabilities. Polling sites must remove barriers to access wherever possible. The voting site should have an accessible path of travel into the voting area from the outside. It also should have proper signage indicating the accessible route. If barriers cannot be removed to allow access to the area of the facility where voting is taking place, relocating an accessible voting machine to another point in the facility that is accessible can be an alternate means of accommodation. While some voters with disabilities may choose to use absentee ballots as a means to vote and to avoid physical access issues, this cannot be the only alternative given to those voters. The Department of Justice has created an ADA checklist for polling places to measure their level of accessibility. This can be found at: www.usdoj.gov/crt/ada/votingck.htm

Reporting Questions or Concerns:

If a person with a disability is experiencing an access issue on Election Day, they can call the Election Protection Coalition for advice or guidance at 1.866.OURVOTE. This nonpartisan organization seeks to offer voter information and advice on assuring that their vote is counted.

If an individual with a disability believes that a form of voter access discrimination has occurred, they can file a formal complaint with the Department of Justice Division of Civil Rights Voting Section at 1.800.253.3931 or by TTY at 1.800.877.267 x 8971.

